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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/196,169	02/15/94	AFANASENKO	N AF AFANASENKO 1
		FORM 1/1109	COLLARD, J EXAMINER
			ART UNIT PAPER NUMBER
			3300 4
			DATE MAILED: 11/01/94
		COLLARD, ROE & GALBANDO 1077 NORTHERN BOULEVARD NEW YORK, NY 11576	

This is a communication from the examiner in charge of your application.  
**COMMISSIONER OF PATENTS AND TRADEMARKS**

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.  
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.  
3.  Notice of Art Cited by Applicant, PTO-1449.  
4.  Notice of Informal Patent Application, PTO-152.  
5.  Information on How to Effect Drawing Changes, PTO-1474.  
6.

## Part II SUMMARY OF ACTION

1.  Claims \_\_\_\_\_ 1-3 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims \_\_\_\_\_ 1-3 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other \_\_\_\_\_

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1. The disclosure is objected to because of the following informalities: The specification contain several minor errors, e.g., page 2 line 6 the word "advantage" should be -- disadvantage-- to clearly convey the meaning of the sentence. Additionally, the examiner recommends deleting the test data on page 8 line 26 to page 10 line 13, inclusive, since the data does not further aid in describing or defining the instant invention. The data was considered and understood by the examiner in the course of examination. Appropriate correction is required.

2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written disclosure of the instant invention. The examiner is unclear how the tie-members are adjusted by the band 4 and the lock 5. What is the structure of the lock? Is the band shorten until the desired tension is obtained and then placed in the lock to hold the band in position?

3. Claim 3 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

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4. Claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **In regard to claim 1**, the examiner objects to the vague and indefinite phrase "being placed ... so as to follow anatomical arrangement of the skeletal muscles" and requests clarification of the structure being claimed. Additionally, the examiner recommends changing "pedal" (line 2) to --foot-- and "and" (line 3) to --, said supports-- in order to elimination awkward phrasing and grammatical structure. **In regard to claim 2**, the claim is incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. MPEP § 706.03(f). What is the relationship between the different supports to each other and the tie-members? **In regard to claim 3**, the functional recitation that adjusters adjust the tension of the tie-members is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function. Also, the examiner recommends changing "adjusters of tension" (line 2) to --means for adjusting the tension-- and "adjusters" (line 3) to --adjusting means-- in order to elimination awkward phrasing and grammatical structure. Additionally, **in regard to claims 1-3**, the examiner recommends changing "CHARACTERIZED" to --characterized--.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 3 are rejected under 35 U.S.C. § 102(a) as being anticipated by Wilkinson. In regard to claim 1, Wilkinson teaches a device comprising pelvic and foot supports 52,12 interconnected by elastic tie-members 34,36,40,46 (Figures 1-4, column 2 lines 40-65, column 3 lines 4-9 and column 4 lines 12-25). In regard to claim 3, the device includes adjusters 136 of tension of the elastic tie-members interposed between the tie-member and the support (Figures 10,11 and column 5 lines 27-40).

7. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Karlik. In regard to claim 1, Karlik teaches a device for treatment of patients with disturbed posture and motor activity comprising pelvic and foot supports 8,26 interconnected by elastic tie-members 22 (Figures 1,4,6,10 and column 1 lines 10-21).

8. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

9. Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Wilkinson. In regard to claim 2, Wilkinson teaches supports for preferably the finger support (i.e. gloves), arms, shoulders, waist, legs, knees and toe support (i.e. a shoe) (Figures 8,13 and column 2 lines 58-60). Wilkinson discloses the claimed invention except for the elbow support. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an elbow support since it was known in the art that providing an elbow support provide greater support for the arm of the user and provide a means to keep the elastic members close to the user's arms for the entire length of the arm.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Davidson - note the supports and the elastic members (Figures 1,4). Marshman - note the supports and the elastic members (Figures 1,2). Malloy - note the suit with the elastic members (Figures 1,2). Yagn - note the supports and the elastic members (Figure 1-3,5).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeanne Clark whose telephone number is (703) 308-0063.

  
J Clark  
November 2, 1994

  
RICHARD J. APLEY  
SPE  
ART UNIT 332